

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

RAFAEL GARCIA,
Petitioner,

CIVIL ACTION

v.

MICHAEL CLARK,
THE DISTRICT ATTORNEY OF THE
COUNTY OF PHILADELPHIA, and
THE ATTORNEY GENERAL OF THE
STATE OF PENNSYLVANIA,
Respondents.

NO. 16-5743

ORDER

AND NOW, this 20th day of March, 2018, upon consideration of Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus filed by *pro se* petitioner, Rafael Garcia (Document No. 1, filed November 3, 2016), Petitioner's Request for an Evidentiary Hearing (Document No. 20, filed August 3, 2017), the Report and Recommendation of United States Magistrate Judge Marilyn Heffley dated August 30, 2017 (Document No. 22), Petitioner's Objections to the August 30, 2017, Report and Recommendation by U.S. Magistrate Judge Marilyn Heffley (Document No. 28, filed December 4, 2017), and the record in this case, **IT IS ORDERED** as follows:

1. The Report and Recommendation of United States Magistrate Judge Marilyn Heffley dated August 30, 2017, is **APPROVED** and **ADOPTED**;
2. Petitioner's Objections to the August 30, 2017, Report and Recommendation by U.S. Magistrate Judge Marilyn Heffley are **OVERRULED**. Many of the Objections are addressed in the Report and Recommendation with which the Court agrees and are overruled for the reasons provided in the Report and Recommendation. Objections not specifically addressed

in the Report and Recommendation are overruled on the ground that, individually and considered together, they are insufficient to warrant the granting of the requested relief;

3. The Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus filed by *pro se* petitioner, Rafael Garcia, is **DENIED** for the reasons stated in the Report and Recommendation of United States Magistrate Judge Marilyn Heffley dated August 30, 2017;

4. Petitioner's Request for an Evidentiary Hearing filed by *pro se* petitioner, Rafael Garcia, is **DENIED**; and,

5. A certificate of appealability will not issue because reasonable jurists would not debate (a) this Court's decision that the petition does not state a valid claim of the denial of a constitutional right, or (b) the propriety of this Court's procedural rulings with respect to petitioner's claims. *See* 28 U.S.C. § 2253(c)(2); *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

BY THE COURT:

/s/ **Hon. Jan E. DuBois**

DuBOIS, JAN E., J.